

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 CITY OF SEATTLE,

9 Plaintiff,

10 v.

11  
12 ALEMAYEHU AREGA JIMMA,

13 Defendant.

CASE NO. MC18-0100RSL

ORDER TO SHOW CAUSE

14  
15 On October 11, 2018, Alemayehu Jimma filed an application to proceed *in forma*  
16 *pauperis* and a proposed complaint. Dkt. # 1. The Court, having reviewed the record as  
17 a whole under the standards articulated in 28 U.S.C. § 1915(e)(2) and having construed  
18 the allegations of the complaint liberally (see Bernhardt v. Los Angeles County, 339  
19 F.3d 920, 925 (9th Cir. 2003)), finds that the filing is deficient.

20 It is not entirely clear what relief Mr. Jimma is seeking. The complaint utilizes  
21 the form of criminal complaint published by the Administrative Office of the United  
22 States Courts, with a caption of United States of America v. Jennifer Gardner, et al. If,  
23 as appears to be the case, Mr. Jimma intends to initiate or prompt the initiation of a  
24 criminal complaint against the four persons or entities listed on the form, this action  
25 must be dismissed. A private citizen generally has no right to criminally prosecute  
26 anyone. Nor does the judiciary have prosecutorial powers. Rather, it is the executive

ORDER TO SHOW CAUSE

1 branch, in particular the United States Attorney's Office, that initiates criminal  
2 complaints in this district.

3 In the alternative, Mr. Jimma may be attempting to remove to federal court a state  
4 criminal proceeding that is pending against him in the Municipal Court of the City of  
5 Seattle. Mr. Jimma does not identify any authority for such a removal. Under 28 U.S.C.  
6 §§ 1442(a) and 1442a, state criminal prosecutions against an officer of the United States  
7 or its courts, an officer of either House of Congress, or a member of the U.S. armed  
8 forces may be removed to federal court. None of these circumstances is alleged in this  
9 case, however. Additionally, a criminal defendant may remove a criminal case to federal  
10 court if he seeks to assert a defense to the prosecution based on federal laws protecting  
11 equal civil rights but is prevented from doing so by a state statute or constitutional  
12 provision that purports to command the state courts to ignore federal rights. See 28  
13 U.S.C. § 1443; Patel v. Del Taco, Inc., 446 F.3d 996, 998–99 (9th Cir.2006). Mr. Jimma  
14 has not alleged a defense to the underlying criminal prosecution arising from statutory  
15 enactments protecting civil rights, and he has pointed to “no formal expression of state  
16 law that prohibits [him] from enforcing [such] civil rights in state court[.]” Id. at 999.  
17 Removal under § 1443 is not appropriate.

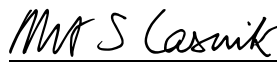
18 Finally, Mr. Jimma may be attempting to recover damages or obtain injunctive  
19 relief under 42 U.S.C. § 1983 against the City of Seattle and state officials for violations  
20 of his constitutional rights under the Fourth and Fourteenth Amendment. That  
21 possibility is not likely given that Mr. Jimma has filed a separate lawsuit against the  
22 Seattle Police Department arising from the alleged unlawful arrests that occurred on  
23 May 25, 2017, and January 3, 2018. See Jimma v. City of Seattle Police Department,  
24 C18-0771RSL. Nevertheless, if that were the case, this miscellaneous matter would be  
25 converted to a civil action and the allegations of the complaint would be evaluated under  
26 Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 556 U.S. 662

1 (2007).  
2

3 For the foregoing reasons, Mr. Jimma is hereby ORDERED TO SHOW CAUSE  
4 why this action should not be dismissed. Mr. Jimma shall, within thirty (30) days of this  
5 order, file an amended complaint clearly identifying the nature of his claims and the  
6 relief requested. If an acceptable amended complaint is not filed within the time  
7 proscribed, this action will be dismissed without prejudice.  
8

9 The Clerk of Court is directed to note this Order to Show Cause on the Court's  
10 calendar for Friday, December 7, 2018.  
11

12 Dated this 1st day of November, 2018.

13   
14 Robert S. Lasnik  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26